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**From:**

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**Cc:**

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I haven't heard of this treatment in this particular context. I remember, though, that we do have some rulings on "dual capacity" where an individual can work for the same organization as both an independent contractor and an employee, but these usually involve corporate officers, as I recall. The following discussion is from CCA 200206053:

The Service recognizes that an individual can work for one entity in a dual capacity. In Rev. Rul. 58-505, 1958-2 C.B., 728, the officers of an insurance company performed administrative duties for the company and also sold insurance policies under a standard independent contractor agreement. The Service held that they worked in two distinct capacities, employee and independent contractor. The ruling states that, if the two services are "interrelated," the officers do not act in two separate capacities. If, however, the services in the two capacities are separate and distinct, then the status of each type of service must be considered separately. This means that there is no interrelation either as to duties or remuneration in the two capacities. In this case, the two types of work are sufficiently different that it is possible, though not certain, that the employee is working in two capacities.

It seems very unusual (inappropriate?) in the context of custodial workers, though. Is the  
paying employment taxes on the W-2 income? I'm copying the managers because they  
have seen lots of worker classification issues.